

KENTUCKY PERSONNEL BOARD
MINUTES OF MARCH 9, 2012

1. The regular monthly meeting of the Kentucky Personnel Board was called to order by Vice Chairman Larry Gillis on, March 9, 2012, at approximately 9:30 a.m., 28 Fountain Place, Frankfort, Kentucky.

Board Personnel Present:

Wayne "Doug" Sapp, Chairman
Larry B. Gillis, Vice Chairman
David B. Stevens, Member
David F. Hutcheson, Jr., Member
Susan Gardner, Member
Tommy W. Chandler, Member
Donald W. "Don" Blevins, Member
Mark A. Sipek, Executive Director and Secretary
Boyce A. Crocker, General Counsel
Linda R. Morris, Administrative Section Supervisor
Cynthia Perkins, Administrative Specialist

2. **READING OF THE MINUTES OF REGULAR MEETING HELD FEBRUARY 17, 2012**

The minutes of the last Board meeting had been previously circulated among the members. Vice Chairman Gillis asked for additions or corrections. Mr. Blevins moved to approve the minutes, as submitted. Dr. Stevens seconded, and the motion carried 7-0. The Board members signed the minutes.

3. **EXECUTIVE DIRECTOR'S REPORT**

Mr. Sipek reported that he received a follow-up memorandum from the Department of Agriculture advising its compliance with the Report and Recommendation to the investigation. Some employees have attended training on the merit system and HR practices. However, training on Position Descriptions is not yet available.

At the conclusion of Mr. Sipek's report, Vice Chairman Gillis called for the Personnel Cabinet's report.

4. **PERSONNEL CABINET'S REPORT**

The Hon. Dinah Bevington came forward to present the Personnel Cabinet's report.

Ms. Bevington advised that the Humana Vitality program kick-off was on March 7, 2012, at the Transportation Cabinet in Frankfort, and was a huge success. A statewide bus tour will also be taking place and employees are encouraged to attend when possible. Information is available on the Cabinet's website.

Ms. Bevington stated that March is colon cancer awareness month and the Cabinet has been working with Madeline Abramson (Lt. Governor's wife) and Wellness Coalition members from state agencies to get information out to all state employees.

Ms. Bevington stated that the tornados affected state offices which had to be either shut-down or temporarily relocated. The Governor's office, State Police and emergency management are providing employees with information on ways they can help out.

The Personnel Cabinet is having a blood drive today [March 9th] and encouraged employees to attend, as there is a lack of blood supply.

Dr. Stevens thanked Ms. Bevington for the requested information she provided to the Board.

Upon conclusion of the Personnel Cabinet's report, Vice Chairman Gillis called the parties forward for oral argument.

5. **ORAL ARGUMENTS**

A. Devenna Bales v. Cabinet for Health and Family Services and Personnel Cabinet

Present for oral argument were counsel for Appellant, the Hon. Paul Fauri; counsel for Appellee Cabinet for Health and Family Services, the Hon. Mary Tansey; and counsel for Appellee Personnel Cabinet, the Hon. Whitney Meagher. After presenting oral arguments, the parties answered questions from the Board.

- B. Mark A. Holt v. KET
- C. Robert Pickering v. KET
- D. Trasimond Soileau v. KET
- E. Patrick J. Wise v. KET
- F. James D. Witt, Jr. v. KET

Present for oral argument were the Appellants (Holt, Pickering, Soileau, Wise and Witt) and counsel for the Appellee, Hon. Morgan Ransdell. After presenting oral arguments, the parties answered questions from the Board.

After oral arguments were presented, Vice Chairman Gillis proposed going into closed session and moving the discussion of investigations to the end of the agenda to be taken up when open session resumed.

6. CLOSED SESSION

Judge Chandler moved that the Board go into Executive Session for the purposes of discussing complaints, proposed or pending litigation, and deliberations regarding individual adjudications. Mr. Blevins seconded. Vice Chairman Gillis stated that the motion had been made and seconded for the Personnel Board to retire into closed Executive Session, passed by a majority vote of the members present, with enough members present to form a quorum. Pursuant to KRS 61.810(1) (c), (f), and (j), the Kentucky Open Meetings Act, the Board will now retire into closed Executive Session. Specific justification under the Kentucky Open Meetings Act for this action are as follows, because there will be discussion of proposed or pending litigation against or on behalf of the Board; and deliberations regarding individual adjudication. The motion carried 7-0. (12:20 p.m.)

Dr. Stevens moved to return to open session. Mr. Sapp seconded and the motion carried 7-0. (1:25 p.m.)

7. CASES TO BE DECIDED

The Board reviewed the following cases. At that time, the Board considered the record including the Hearing Officers' findings of fact, conclusions of law and recommendations, any exceptions and responses which had been filed, and oral arguments where applicable.

A. Devenna Bales v. Cabinet for Health and Family Services and Personnel Cabinet

Mr. Hutcheson moved to note Appellee Personnel Cabinet's exceptions; Appellee Cabinet for Health and Family Services' exceptions; Appellant's response to Appellee Personnel Cabinet's exceptions; Appellant's response to Appellee Health and Family Services exceptions; Appellee Personnel Cabinet's response to exceptions of Appellee Cabinet for Health and Family Services and oral argument and to defer this matter to the next meeting of the Board. Mr. Sapp seconded and the motion carried 5-1, with Mr. Blevins opposing and Dr. Stevens recusing.

B. Mark A. Holt v. KET

C. Robert Pickering v. KET

D. Trasimond Soileau v. KET

E. Patrick J. Wise v. KET

F. James D. Witt, Jr. v. KET

Mr. Sapp moved to note [B, C, D, E, and F *en bloc*] Appellant Holt's exceptions; Appellant Pickering's exceptions; Appellant Soileau's exceptions; Appellant Soileau's corrected and amended exceptions Appellant Wise's exceptions; Appellant Wise's corrected exceptions; Appellant Witt's exceptions; Appellee's Response to Exceptions; and oral arguments and to defer this matter to the next meeting of the Board. Dr. Stevens seconded and the motion carried 7-0.

G. William Amburgey v. Dept. of Fish and Wildlife Resources and Jason Slone
(Deferred from February)

Mr. Hutcheson moved to note Appellant's exceptions, Appellee's response and oral argument, and to accept the Final Order Altering the recommended order and sustaining the appeal to the extent therein, as attached to the minutes. Ms. Gardner seconded and the motion carried 7-0.

H. Brian Goodlett v. Justice and Public Safety Cabinet (Corrections)

Mr. Sapp moved to accept the recommended order dismissing the appeal. Judge Chandler seconded and the motion carried 7-0.

Show Cause Orders – No Response Filed – Appeals Dismissed

The following cases had a show cause order entered by the hearing officer recommending that the appeals be dismissed for failure to timely prosecute unless a statement was filed by the Appellants stating sufficient cause to excuse their failure to appear at the scheduled hearing. There was no response submitted by the Appellants to the show cause orders.

- I. Wendy Echols v. Personnel Cabinet
- J. Robert Kessler v. Cabinet for Health and Family Services

Mr. Sapp moved to find that the Appellants had not responded to the show cause order and that the recommended orders be accepted dismissing the appeals for failure to timely prosecute the appeals. Mr. Blevins seconded and the motion carried 7-0.

8. WITHDRAWALS

Judge Chandler moved to consider the following withdrawals of appeals *en bloc* and to accept the withdrawals and dismiss the appeals. Dr. Stevens seconded and the motion carried 7-0.

- A. Marshall Rose v. Transportation Cabinet
- B. Marissa Brewer v. Transportation Cabinet
- C. Joshua Buckman v. Cabinet for Health and Family Services
- D. William Cornelius v. Transportation Cabinet

9. SETTLEMENTS

- A. Timothy Anderson v. Transportation Cabinet (2011-025)
--Deferred from February Board

Mr. Hutcheson moved to reject settlement A. Ms. Gardner seconded and the motion carried 7-0.

- B. Francis Larney v. Justice and Public Safety Cabinet (Corrections)

Mr. Sapp moved to accept settlement B. Ms. Gardner seconded and the motion carried 7-0.

10. INVESTIGATIONS

- A. Request for Investigation of KET by James Witt, Jr., Patrick Wise, Trasimond Soileau, Robert Pickering and Mark Holt
--Response of KET (Morgan Ransdell and Aaron Ament)

Mr. Hutcheson moved to table the request for investigation. Dr. Stevens seconded and the motion carried 7-0.

There being no further business, Dr. Stevens moved to adjourn. Mr. Sapp seconded and the motion carried 7-0. (1:30 p.m.)

Wayne D. Sapp, Chairman

Larry B. Gillis, Vice Chairman

David B. Stevens, Member

David F. Hutcheson, Jr., Member

Susan Gardner, Member

Tommy Chandler, Member

Donald W. Blevins, Member